

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RICHARD GHILARDUCCI,

No. C 12-03780 CRB

Plaintiff,

**ORDER RE STIPULATION RE STAY
OF FINAL JUDGMENT ENTERED
ON 12-20-12**

v.

UNITED STATES OF AMERICA,

Defendant.

The Court is in receipt of a Stipulation between the parties to: (1) stay the execution of final judgment in Case No. 12-3780 CRB, entered on 12-20-12, and the January 15, 2013 Order in Case No. 10-56 CRB, during the pendency of Plaintiff's appeal; (2) approve the amount of proceeds held in the Clerk's Registry in Case No. 12-3780 CRB as security pursuant to Federal Rule of Civil Procedure 62; and (3) direct the Clerk of the Court to continue to hold such funds in the Clerk's Registry, including interest earned thereon, pending further order from the Court. See dkt. 39 at 2. The Court has not signed the parties' Proposed Order (dkt. 39-1), and instead orders as follows.

The Court sets the amount for a supersedeas bond at \$24,859.44. This amount represents 1.25 times \$19,887.55, the amount of proceeds currently held in the Clerk's Registry in Case No. 12-3780 CRB. The Court sets that amount based on its application of former Rule 73(d), and in light of the typical practice in this Circuit. See Cotton v. City of

1 Eureka, California, 860 F. Supp. 2d 999, 1029 (N.D. Cal. 2012) (citing Christopher A. Goelz
2 & Meredith J. Watts, California Practice Guide: Ninth Circuit Civil Appellate Practice ¶
3 1:168 (TRG 2011)).

4 Accordingly, Plaintiff must file an additional \$4,971.89 into the Registry of the Clerk
5 of the Court by 5 p.m. on Thursday, March 7, 2013. Once the supersedeas bond has been
6 paid in full, the Court will (1) stay the execution of final judgment in Case No. 12-3780
7 CRB, entered on 12-20-12, and the January 15, 2013 Order in Case No. 10-56 CRB, during
8 the pendency of Plaintiff's appeal, and (2) direct the Clerk of the Court to continue to hold
9 such funds in the Clerk's Registry, including interest earned thereon, pending further order
10 from the Court.

11 The hearing on Plaintiff's Motion for Stay of Execution of Judgment Through Appeal
12 and Approval of Proposed Security Pursuant to Rule 62 (dkt. 36), currently set for March 8,
13 2013, is hereby VACATED.

14 **IT IS SO ORDERED.**

15
16 Dated: February 25, 2013



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE